

MARTHA BLACK EBERHARD, INDIVIDUALLY AND AS EXECUTOR OF THE ESTATE OF DAVID A. EBERHARD, DOROTHY M. ELLIOT, DONALD R. ELLIOT, AND PEGGY GANNON,

§

Plaintiffs.

CIVIL NO. A-03-CA-866-LY

vs.

GOLDEN AMERICAN LIFE INSURANCE CO., THE LEADERS GROUP, INC., DANNY W. BALLARD, AND PFS INVESTMENTS, INC.

Defendants.

OPPOSED MOTION FOR TEMPORARY STAY AND REQUEST FOR ORAL HEARING

TO THE HONORABLE JUDGE YEAKEL:

Defendants, The Leaders Group, Inc., and Danny W. Ballard, file this Opposed Motion for Temporary Stay and Request for Oral Hearing.

- This case involves the same circumstances as Umbrella Bank v. Jamison, 341 1. B.R. 835, 842 (W.D. Tex. 2006), in which the defendants urgently sought relief from the enforcement of a judgment. In Umbrella Bank, this Court granted expedited relief to protect the judgment debtor and to prevent the controversy becoming moot. The defendants respectfully request expedited relief because this case involves the same circumstances and issues as those addressed by this Court in Umbrella Bank.
- The defendants urgently request relief from the plaintiffs' aggressive attempts to 2. enforce this Court's judgment. The plaintiffs have garnished The Leaders Group, Inc,'s

("TLG's") operating accounts at Wells Fargo Bank, in an attempt to force the defendants to surrender in this litigation. To defend against these garnishments, the defendants have today filed a motion to approve a supersedeas bond in accordance with Texas law. This motion raises the same issue as *Umbrella Bank*, in which the Court interpreted Rules 62(d) and (f) to protect the interests of a judgment debtor facing similar circumstances.

- 3. In an earlier effort to obtain protection from the Court, on August 1, 2006, the defendants filed a motion seeking a temporary stay under Rule 62(b). In connection with that motion, they filed a request for an oral hearing at the Court's earliest convenience. The plaintiffs have filed a response. They do not oppose an oral hearing on that motion, but while it has been pending, they have continued to attack TLG by filing new garnishment actions.
- 4. So that theses issues do not become moot before this Court rules on the defendants' motions for stay and for determination of supersedeas bond, the defendants request a temporary stay of the judgment and collection efforts. The defendants respectfully request an oral hearing at the Court's earliest convenience.

PRAYER

The defendants request a temporary stay of the judgment, pending this Court's resolution of the post-judgment motions, their motions for stay, and for determination of a supersedeas bond. The stay requested includes post-judgment discovery issued by the plaintiffs. The defendants request such other and further relief to which they may be entitled. A proposed form of order is attached.

Respectfully Submitted,

BEIRNE, MAYNARD & PARSONS, L.L.P.

Jerrey R. Parsons

State Bar No. 15547200

fery 7. Nobles

State Bar No. 15053050

Amparo M. Yanez

State Bar No. 24037751

1300 Post Oak Boulevard, Suite 2500

Houston, Texas 77056

Telephone: (713) 623-0887

Facsimile: (713) 960-1527

CERTIFICATE OF CONFERENCE

I have conferred with counsel for Plaintiffs regarding this motion. This motion is opposed.

Veffer T. Nobles

CERTIFICATE OF SERVICE

I hereby certify that a true and correct copy of the foregoing instrument was sent to the following attorneys-of-record pursuant to the Federal Rules of Civil Procedure on this 17th day of August 2006 via hand delivery.

Donald R. Taylor

Steven D. Urban

Karen Burgess

Frank King

Taylor Dunham and Burgess, L.L.P.

301 Congress Avenue, Suite 1050

Austin, Texas 78701

Douglas W. Alexander

Dana Livingston Cobb

Alexander, Dubose, Jones & Townsend,

L.L.P.

515 Congress Ave., Suite 1720

Austin, Texas 78701

IN THE UNITED STATES DISTRICT COURT FOR THE WESTERN DISTRICT OF TEXAS AUSTIN DIVISION

MARTHA BLACK EBERHARD,	§	
INDIVIDUALLY AND AS EXECUTOR	§	
OF THE ESTATE OF DAVID A.	§	
EBERHARD, AND PEGGY GANNON,	§	
Plaintiffs,	§	
	§	
V.	§	CIVIL NO. A-03-CA-866-LY
	§	
GOLDEN AMERICAN LIFE	§	
INSURANCE CO., THE LEADERS	§	
GROUP, INC., AND DANNY W.	§	
BALLARD,	§	
Defendants.	§	

ORDER SETTING HEARING

IT IS HEREBY ORDERED that the above entitled and nur	mbered cause is set for hearing
on Defendants, the Leaders Group, Inc., and Danny W. Ballard's	Motion for Temporary Stay in
Courtroom, on, August, 2006, a	ıtm.
IT IS FURTHER ORDERED that Plaintiffs' efforts to c	collect or enforce the Court's
judgment are STAYED until the Court enters further orders.	
SIGNED this day of August, 2006.	
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Hon. Lee Yeakel United States Dist	riot Indoo
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GOLDEN AMERICAN LIFE	§	
INSURANCE CO., THE LEADERS	§	
GROUP, INC., AND DANNY W.	§	
BALLARD,	§	
Defendants.	§	

ORDER GRANTING TEMPORARY STAY

This Court, upon consideration of Defendants, The Leaders Group, Inc., and Danny W. Ballard's Opposed Motion for Temporary Stay, and any responses thereto, is of opinion that Defendants' Motion should be GRANTED.

Signed this ____ day of ______, 2006.

Hon. Lee Yeakel
United States District Judge